

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

JBS

Applicant's or agent's file reference P205223PCT YGR/d0	FOR FURTHER ACTION <small>See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)</small>	
International application No. PCT/NL 03/00792	International filing date (day/month/year) 11.11.2003	Priority date (day/month/year) 11.11.2002
International Patent Classification (IPC) or both national classification and IPC A01K41/00		
Applicant T. METER HOLDING B.V. et Al.		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 4 sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of 2 sheets.</p>
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the opinion II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application

Date of submission of the demand 09.06.2004	Date of completion of this report 13.01.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer von Arx, V. Telephone No. +31 70 340-2464



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/NL 03/00792

I. Basis of the report

1. With regard to the elements of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-4 as originally filed

Claims, Numbers

1-11 received on 29.12.2004 with letter of 29.12.2004

Drawings, Sheets

1/1 as originally filed

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

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5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N) Yes: Claims 1-11
 No: Claims

Inventive step (IS) Yes: Claims 1-11
 No: Claims

Industrial applicability (IA) Yes: Claims 1-11
 No: Claims

2. Citations and explanations

see separate sheet

**INTERNATIONAL PRELIMINARY
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Re Item V

Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The set of claims 1 to 11 contains two claims 9 and no claim 8. The first claim 9 was construed as claim 8.

Disinfecting heat treatments differ from the incubation process by the fact that the temperature during disinfecting heat treatments will exceed 50° C, and in particular the temperature during a disinfecting heat treatment will rise above 55° C. Modification of a classical incubator to arrive at the method and incubator claimed is not suggested by any of the documents cited in the international search report or in the description and can not be seen as the result of a normal finishing operation because the prior art cited in fact leads away from the proposed solution of adapting the existing temperature regulating means to allow heating of the incubator to more than 50°C.

The person skilled in the art would thus not be able to combine all the features of independent claims 1 and 8 and as such arrive at the claimed method and incubator without an inventive activity.

Moreover, claims 2 to 7 are dependent on claim 1 and claims 9 to 11 are dependent on claim 8 and thus all the claims 1 to 11 satisfy the requirements of Article 33(2)(3) PCT.